

§ 115.187

abuse intervention, prevention and response efforts.

§ 115.187 Data collection.

(a) The agency shall maintain in a secure area all agency case records associated with claims of sexual abuse, in accordance with these standards and applicable agency policies, and in accordance with established schedules. The DHS Office of Inspector General shall maintain the official investigative file related to claims of sexual abuse investigated by the DHS Office of Inspector General.

(b) On an annual basis, the PSA Coordinator shall aggregate, in a manner that will facilitate the agency's ability to detect possible patterns and help prevent future incidents, the incident-based sexual abuse data available, including the number of reported sexual abuse allegations determined to be substantiated, unsubstantiated, or unfounded, or for which investigation is ongoing, and for each incident found to be substantiated, such information as is available to the PSA Coordinator concerning:

(1) The date, time, location, and nature of the incident;

(2) The demographic background of the victim and perpetrator (including citizenship, age, gender, and whether either has self-identified as gay, lesbian, bisexual, transgender, intersex, or gender nonconforming);

(3) The reporting timeline for the incident (including the name of individual who reported the incident, and the date and time the report was received);

(4) Any injuries sustained by the victim;

(5) Post-report follow up responses and action taken by the agency (e.g., supervision, referral for medical or mental health services, etc.); and

(6) Any sanctions imposed on the perpetrator.

(c) The agency shall maintain, review, and collect data as needed from all available agency records.

(d) Upon request, the agency shall provide all such data from the previous calendar year to the Office for Civil Rights and Civil Liberties no later than June 30.

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§ 115.188 Data review for corrective action.

(a) The agency shall review data collected and aggregated pursuant to § 115.187 in order to assess and improve the effectiveness of its sexual abuse prevention, detection, and response policies, practices, and training, including by:

(1) Identifying problem areas;

(2) Taking corrective action on an ongoing basis; and

(3) Preparing an annual report of its findings and corrective actions for the agency as a whole.

(b) Such report shall include a comparison of the current year's data and corrective actions with those from prior years and shall provide an assessment of the agency's progress in preventing, detecting, and responding to sexual abuse.

(c) The agency's report shall be approved by the agency head and made readily available to the public through its Web site.

(d) The agency may redact specific material from the reports, when appropriate for safety or security, but must indicate the nature of the material redacted.

§ 115.189 Data storage, publication, and destruction.

(a) The agency shall ensure that data collected pursuant to § 115.187 are securely retained in accordance with agency record retention policies and the agency protocol regarding investigation of allegations.

(b) The agency shall make all aggregated sexual abuse data from holding facilities under its direct control and from any private agencies with which it contracts available to the public at least annually on its Web site consistent with agency information disclosure policies and processes.

(c) Before making aggregated sexual abuse data publicly available, the agency shall remove all personal identifiers.

(d) The agency shall maintain sexual abuse data collected pursuant to § 115.187 for at least 10 years after the date of the initial collection unless Federal, State, or local law requires otherwise.

AUDITS AND COMPLIANCE

§ 115.193 Audits of standards.

(a) Within three years of July 6, 2015, the agency shall ensure that each of its immigration holding facilities that houses detainees overnight and has adopted these standards is audited. For any such holding facility established after July 6, 2015, the agency shall ensure that the facility is audited within three years. Audits of new holding facilities as well as holding facilities that have previously failed to meet the standards shall occur as soon as practicable within the three-year cycle; however, where it is necessary to prioritize, priority shall be given to facilities that have previously failed to meet the standards.

(1) Audits required under this paragraph (a) shall:

(i) Include a determination whether the holding facility is low-risk based on its physical characteristics and whether it passes the audit conducted pursuant to paragraph (a)(1)(ii) of this section,

(ii) Be conducted pursuant to §§115.201 through 115.205, and

(iii) Be coordinated by the agency with the DHS Office for Civil Rights and Civil Liberties, which may request an expedited audit if it has reason to believe that an expedited audit is appropriate.

(2) [Reserved]

(b) Following an audit, the agency shall ensure that any immigration holding facility that houses detainees overnight and is determined to be low-risk, based on its physical characteristics and passing its most recent audit, is audited at least once every five years.

(1) Audits required under this paragraph (b) shall:

(i) Include a determination whether the holding facility is low-risk based on its physical characteristics and whether it passes the audit conducted pursuant to paragraph (b)(1)(ii) of this section,

(ii) Be conducted pursuant to §§115.201 through 115.205, and

(iii) Be coordinated by the agency with the DHS Office for Civil Rights and Civil Liberties, which may request an expedited audit if it has reason to

believe that an expedited audit is appropriate.

(2) [Reserved]

(c) Following an audit, the agency shall ensure that any immigration holding facility that houses detainees overnight and is determined to not be low-risk, based on its physical characteristics or not passing its most recent audit, is audited at least once every three years.

(1) Audits required under this paragraph (c) shall:

(i) Include a determination whether the holding facility is low-risk based on its physical characteristics and whether it passes the audit conducted by paragraph (c)(1)(ii) of this section,

(ii) Be conducted pursuant to §§115.201 through 115.205, and

(iii) Be coordinated by the agency with the DHS Office for Civil Rights and Civil Liberties, which may request an expedited audit if it has reason to believe that an expedited audit is appropriate.

(2) [Reserved]

ADDITIONAL PROVISIONS IN AGENCY
POLICIES**§ 115.195 Additional provisions in agency policies.**

The regulations in this subpart B establish minimum requirements for agencies. Agency policies may include additional requirements.

**Subpart C—External Auditing and
Corrective Action****§ 115.201 Scope of audits.**

(a) The agency shall develop and issue an instrument that is coordinated with the DHS Office for Civil Rights and Civil Liberties, which will provide guidance on the conduct of and contents of the audit;

(b) The auditor shall review all relevant agency policies, procedures, reports, internal and external audits, and accreditations for each facility type.

(c) The audits shall review, at a minimum, a sampling of relevant documents and other records and information for the most recent one-year period.